

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55486; File No. SR-BSE-2007-12)

March 16, 2007

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Apply Non-BeX Executed Trade Fee Retroactively

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 2, 2007, the Boston Stock Exchange, Inc. (“BSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to make SR-BSE-2007-11, a rule filing amending the Boston Equities Exchange (“BeX”) fee schedule to include a transaction fee to be charged to BSE Members who request a BeX Purchase & Sale Blotter reflecting the transaction information related to the execution of a single order, part of which was executed on Boston Equities Exchange (“BeX”) and part of which was executed at an away Trading Center, retroactively effective for the time period February 1, 2007 through March 2, 2007. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.bostonstock.com>) and from the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On November 20, 2006, the BSE filed SR-BSE-2006-44, a proposed rule change that amended the existing BSE fee schedule and established a fee schedule for the BeX, a facility of the Exchange.³ This proposed rule change, among other things, deleted all Transaction Fees, Electronic File Access and Processing Fees, and Floor Operation Fees from the BSE fee schedule. The Transaction Fees and Electronic File Access and Processing Fees that were deleted from the BSE fee schedule were transferred to the BeX fee schedule.

On March 2, 2007, the BSE filed SR-BSE-2007-11, a proposed rule change amending the BeX fee schedule to include a transaction fee that was deleted from the BSE fee schedule but not transferred to the BeX fee schedule as a part of BSE-2006-44.⁴ Specifically, the BSE fee schedule contained a transaction fee titled "Floor Brokered non-BSE executions." The fee for Floor Brokered non-BSE executions was \$.0005, or \$.05 per 100 shares. BSE Members were charged the Floor Brokered non-BSE execution fee when the Member requested that the

³ See Securities Exchange Act Release No. 54795 (November 20, 2006), 71 FR 68850 (November 28, 2006)(Notice of Filing and Immediate Effectiveness of SR-BSE-2006-44).

⁴ See Securities Exchange Act Release No. 55450 (March 13, 2007)(Notice of Filing and Immediate Effectiveness of SR-BSE-2007-11).

information related to the execution of a single order, only a part of which had been executed on the BSE with the remaining portion executed at an away Trading Center, be reflected on a BSE Purchase & Sale Blotter rather than having only the portion executed at the BSE reflected on the BSE Purchase & Sale Blotter. In order to include the information related to the portion of an order executed at a Trading Center other than the BSE on a BSE Purchase & Sale Blotter, in other words, in order to consolidate the transaction information on single report, the BSE performed the necessary back office operations on behalf of the Member so the transaction information, including the information related to the portion of the order executed at an away Trading Center, would appear on a BSE Purchase & Sale Blotter.

In SR-BSE-2007-11 the Exchange proposed charging that same fee, \$.05 per 100 shares, for performing that same service, on behalf of BSE members, including BeX EAMs, who request a BeX Purchase & Sale Blotter reflecting the transaction information related to the execution of a single order, part of which was executed on BeX and part of which was executed at an away Trading Center. The fee would be titled “Non-BeX executed trades” and would appear on the BeX fee schedule.⁵

The purpose of the instant filing is to make the Non-BeX executed trade fee retroactively effective for the time period February 1, 2007 through March 2, 2007.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b)

⁵ Id.

of the Act,⁶ in general, and furthers the objectives of Section 6(b)(4) of the Act,⁷ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange Members and issuers and other persons using Exchange facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form <http://www.sec.gov/rules.sro.shtml>; or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BSE-2007-12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-BSE-2007-12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

Commission's Internet Web site (<http://www.sec.gov/rules.sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the file number in the caption above and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁸ In particular, the Commission finds that proposed rule change is consistent with Section 6(b)(4) of the Act, which requires that the rules of the Exchange be designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.⁹ The Commission believes that allowing the Exchange to charge the Non-BeX executed trade fee retroactively for the time period February 1, 2007 through March 2, 2007, is appropriate because this fee would be charged only to those members who affirmatively request that the Exchange include information on the BSE Purchase & Sale Blotter with respect

⁸ In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f(b)(4).

to those executions resulting from a portion of an order sent to BeX being routed to an away Trading Center.¹⁰ Further, the Commission notes that the same fee for substantively the same service had been charged to BSE members prior to the changes made to the fee schedule in SR-BSE-2006-44,¹¹ and the fee was reinstated pursuant to SR-BSE-2007-11, beginning March 2, 2007.¹²

Accordingly, the Commission finds good cause pursuant to Section 19(b)(2) of the Act¹³ for approving the proposed rule change prior to the thirtieth day after publication of the proposed rule change in the Federal Register. As noted above, the Commission believes that the Non-BeX executed trade fee is substantively similar to the Floor Brokered Execution fee, which was previously charged to BSE members for providing substantially the same service for which the Non-BeX executed trade fee would be charged to BSE members, and therefore no novel regulatory issues related to this fee are present.

¹⁰ According to the Exchange, other information included on the BSE Purchase & Sale Blotter in PDF format is provided to members free of charge.

¹¹ See note 3, supra.

¹² See note 4, supra.

¹³ 15 U.S.C. 78s(b)(2).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-BSE-2007-12), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Florence E. Harmon
Deputy Secretary

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).